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Justifying Inequality as Equality: Germany and the Reform of Voting Weights in the Council of the European Union

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ABSTRACT

Weighted voting institutionalises inequality in international organisations. How is it possible that states accept rules that formally privilege some over others even though this contradicts the sovereign equality of states and norms of democratic decision-making? This contribution to a special issue about global stratification shows that arguments about equality can actually serve to justify inequality in international institutions. This can be seen in moves by the German government to justify its proposals for a reform of voting in the Council of the European Union (1995–2008). Successive German governments focused on arguments about democracy based on the equality of states and of citizens to justify their push for a more privileged position for Germany in the Council. Efficiency also figured as a justification but was clearly less prominent.



KEYWORDS

Legitimacy; justification; inequality; weighted voting; double majority; Germany

Introduction

The voting rules of an international organisation are a public display of the formal equality or inequality among its members. Most organisations employ the one-state one-vote rule, signalling the formal equality of their members. Some organisations, however, assign different numbers of votes to their members or give some of them special veto rights. The EU, for instance, has practiced weighted voting since the early 1950s. Other notable organisations that followed this path are the International Monetary Fund, the World Bank and the United Nations Security Council.

Weighted voting appears to contradict powerful normative standards of decision-making both in international relations and in democracies. It is in tension with the sovereign equality of states, which still constitutes an “axiomatic premise of the international legal order”¹ and with basic democratic norms requiring that, in making a democratic decision, every vote should count the same. Weighted voting is thus not easily reconciled with basic norms of political and legal equality.² It requires additional normative

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¹Juliane Kokott, “States, Sovereign Equality”, *Max Planck Encyclopedia of Public International Law*, Oxford University Press, para. 1.

²See also Trevor Latimer, “Plural Voting and Political Equality: A Thought Experiment in Democratic Theory”, *European Journal of Political Theory*, Vol. 17, No. 1, pp. 65–86.

justification, not only in international legal and democratic theory but also in political practice. Political actors who want to institutionalise weighted voting systems will have to justify this departure from norms of egalitarian voting in order to create acceptance and legitimacy for them and thus a basis for their long-term maintenance.

While the question of how inequality becomes widely accepted and maintained within a society has been intensely studied by sociology from a wide variety of angles³, IR research has tended to constrain its analysis of international inequality to treating it as the outcome of economic, military or symbolic power disparities. Much less attention has been paid to the sociological insight that inequalities require justification and legitimation and can, through these processes, become widely accepted and normatively engrained in a society. Examining how states justify the institutionalisation of unequal voting weights in international organisations promises insights into this special issue's core question of how international organisations contribute to and stabilise international inequality, a research topic that is gaining increasing attention in the IR literature.⁴

In this article, I will examine the normative underpinning of weighted voting in one particular organisation by studying the justifications put forward to defend it. I will focus here on the European Union (EU), an organisation in which notions of political equality are of high significance and even enshrined in its core treaty (Art. 2 Treaty on European Union). Nonetheless, inequality in decision-making among EU governments has significantly increased in recent years through an overhaul of the voting rules, a reform process that has been publicly debated among governments for more than a decade. How did governments justify a decision-making system as acceptable, in which one of them (Germany) wields significantly more formal power than any other government and a reform of the voting weights which increased inequality among member states regardless of whether it is measured in relation to governments' voting power or the indirect voting power of citizens⁵? Due to space constraints, I will concentrate on justifications put forward by one government, namely the most consistent supporter of the increase in institutional inequality, Germany. I will analyse its justifications in detail but also demonstrate that its basic normative arguments were eventually accepted even by those originally opposed to the German proposals. Thus, the core arguments of the German government have become part of the commonly accepted normative framework, in which the EU operates.

The study will show that equality remains a very powerful normative standard for judging international decision-making systems and that equality can serve as a justification for institutional arrangements that actually increase inequality. The EU Council's new "double majority" voting system was justified as reflecting equal treatment of both states and citizens by requiring a decision to meet two thresholds: a qualified majority of states, which would also need to represent a qualified majority of the EU's population. Essentially, this "double equality" did not have an equalising effect but significantly enhanced the voting power of the governments of larger states and especially that of Germany.

³For a summary, see Caroline Fehl and Katja Freistein, "Organising Global Stratification: How International Organisations (Re)produce Inequalities in International Society", *Global Society*, Vol. 34, No. 3 (2020).

⁴See Fehl and Freistein, *op. cit.*

⁵Leech, Dennis, and Aziz Haris, "The Double Majority Voting Rule of the EU Reform Treaty as a Democratic Ideal for an Enlarging Union: An Appraisal Using Voting Power Analysis", in Marek A Cichocki and Karol Zyczkowski (eds.), *Institutional Design and Voting Power in the European Union* (London: Routledge 2010), pp. 59–74.

In what follows, I will, first, briefly discuss the importance of the justification of institutional rules for stabilising and legitimating them. Based on this, I will develop a framework for analysing the justification of institutional inequality and put this frame to work by analysing how the German government justified its reform proposals.

Justifying inequality in international organisations

Justification and legitimation in international politics

This study proceeds from the assumption that rules which institutionalise inequality need to be justified and that examining these justifications sheds light on the normative basis on which inequality in international politics is created and maintained. Justification (that is, giving reasons) as such is a ubiquitous phenomenon in politics. Policy proposals and decisions, including those concerning institutional designs, are defended or contested by providing reasons (and counter-reasons) as to their desirability. This is so not only because human beings are “reason-giving animals”.⁶ Rather, politics is a conflictive process, in which different interests and views of the common good collide. “Controversy is at the heart of politics”⁷ and reason-giving is a constitutive element of controversies.

In politics, a core function of justification is the legitimation of authority or power. For political decisions to be accepted as authoritative by those subjected to them, these decisions need to be conceived as legitimate. David Beetham has pointed out that justification is at the heart of creating such legitimacy, i.e. of the acceptance of authority as rightful. When justification serves to legitimate political authority, it takes a specific form. Beetham argues that a power relation is legitimate if it can be justified “by reference to beliefs shared by both subordinate and dominant”, if “it conforms to established rules” and if the subordinates consent to it.⁸ Therefore, political actors can be expected to justify decisions and proposals by referring to established rules and to shared beliefs in a community, seeking the consent of those subjected to a decision. Studying justifications thus provides an entry point for examining the normative reference points that legitimate and thus stabilise political order.

A growing number of studies under the label “empirical legitimation research” has examined public justifications in this vein and investigated how policies or political positions are publicly justified against the background of shared beliefs within a community and how these justifications are contested.⁹ This research has focused especially on how democracy serves as a powerful reference point for justifying policies and rules.¹⁰ Justifications of inequality in international decision-making, however, have not yet

⁶Charles Tilly, *Why? What Happens When People Give Reasons - and Why* (Princeton: Princeton University Press, 2006).

⁷Christian Bueger, “The Clash of Practice: Political Controversy and the United Nations Peacebuilding Commission”, *Evidence & Policy*, Vol. 7, No. 2 (2011), pp. 171–191.

⁸David Beetham, *The Legitimation of Power*, 2nd ed. (Basingstoke: Palgrave Macmillan, 2013), p. 16.

⁹Achim Hurrelmann, “Empirical Legitimation Analysis in International Relations: How to Learn from the Insights – and Avoid the Mistakes – of Research in EU Studies”, *Contemporary Politics*, Vol. 23, No. 1 (2017), pp. 63–80; Frank Nullmeier et al., *Prekäre Legitimitäten: Rechtfertigung von Herrschaft in der postnationalen Konstellation* (Frankfurt a.M.: Campus, 2010); Jens Steffek, “The Legitimation of International Governance: A Discourse Approach”, *European Journal of International Relations*, Vol. 9, No. 2 (2003), pp. 249–75.

¹⁰E.g. Steffen Schneider et al., *Democracy's Deep Roots: Why the Nation State Remains Legitimate* (New York: Palgrave Macmillan, 2010).

received much attention. Studying them, however, promises particularly interesting insights about the significance of core norms in international politics. How can institutional inequality can be normatively maintained even though international decision-making is located at the intersection of two normative frameworks that prescribe equality among actors, sovereign equality of states and democratic decision-making?

The justification of unequal voting weights

Past research has only attempted to explain the existence of weighted voting in international organisations but not to reconstruct the normative grounds on which political actors justify and maintain its existence. When looking for potential justifications of weighted voting, causal explanations, nonetheless, can serve as a first guide. Such explanations can be translated into justifications. If the existence of an organisation is conceived as a common good and weighted voting is a necessary condition for the existence of that organisation, weighted voting can be argued to be normatively desirable. Therefore, I will briefly review the literature on weighted voting with a view to how its explanations could feature as arguments in justifications of weighted voting.

Research on weighted voting offers two main explanations for the existence of unequal voting weights: power and efficiency. Taking its cues from the broader public choice literature on voting systems¹¹, this literature proceeds from the assumption that states design voting rules with a simple goal: securing as much influence on the organisation's decision as possible without impairing the ability of the organisation to actually make and implement decisions.¹² Especially in large organisations and in organisations with a long shadow of the future, states will be willing to accept non-unanimous voting to escape the risk of paralysis.¹³ The weighting of votes becomes especially likely when some states are needed more than others to achieve organisational goals. This holds especially for two types of IOs: organisations, in which there is an easily identifiable group of core actors necessary for their functioning, i.e. commodity-based organisations as well as banks; and organisations, which have been founded with great power participation.¹⁴

Therefore, weighted voting could be justified as functional necessity. Weighted voting makes it possible to attract powerful actors to an organisation, which will then be able to provide common goods for all members. Moreover, it may help to avoid paralysis in an organisation and thus enable it to fulfil its purpose. The former argument, in particular, concurs with the structural-functional theory of stratification in societies in its classic formulation by Kingsley Davis and Wilbert Moore, which posits that positions which are of central importance for a society are linked to special rewards.¹⁵

¹¹See, for example, the contributions in Dennis C. Mueller (ed.), *Perspectives on Public Choice: A Handbook* (Cambridge: Cambridge University Press 1997), esp. pp. 149–244.

¹²Thomas König and Thomas Bräuninger, "The Inclusiveness of European Decision Rules", *Journal of Theoretical Politics*, Vol. 10, No. 1 (1998), pp. 125–142.

¹³Barbara Koremenos, Charles Lipson and Duncan Snidal, "The Rational Design of International Institutions", *International Organization*, Vol. 55, No. 4 (2001), pp. 761–799 (pp. 791–792); Giovanni Maggi and Massimo Morelli, "Self-Enforcing Voting in International Organizations", *American Economic Review*, Vol. 96, No. 4 (2006), pp. 1137–1158.

¹⁴Daniel J. Blake and Autumn Lockwood Payton, "Balancing Design Objectives: Analyzing New Data on Voting Rules in Intergovernmental Organizations", *Review of International Organizations*, Vol. 10, No. 3 (2015), pp. 377–402.

¹⁵Kingsley Davis and Wilbert E. Moore, "Some Principles of Stratification", *American Sociological Review*, Vol. 10, No. 2 (1945), pp. 242–249. See also Fehl and Freistein, *op. cit.*

Do actors actually employ such justifications? Can functional justifications override norms of equality or do actors find other ways of justifying decision-making procedures in which some enjoy a formally stronger position than others?

I will explore this question examining the introduction of double majority voting in the Council of the EU. This reform considerably increased the voting power of Germany vis-à-vis other member states and overall increased inequality in the Council, as will become clear below. The EU lends itself to such an investigation for several reasons. To begin with, this is a case in which governments' justifications for institutionalising inequality can be observed first-hand. In the reform process that took place since the mid-1990s, different principles for designing decision-making rules were debated and governments spelled out and justified their positions publicly over a period of more than ten years. Moreover, it is widely accepted today that analysing the EU can provide important insights into broader questions of international cooperation and organisation, especially when major institutional questions are concerned. This is so at least since Andrew Moravcsik, in his landmark study on European integration, argued that major integration decisions should be studied as problems of international cooperation rather than as issues of European integration in need of *sui generis* theories.¹⁶ Today, a significant strand of studies on major issues of European integration employs and informs general IR theorising.¹⁷ The issue at stake in the present study, the legitimisation of rules for supranational decision-making, is one that applies not only to the EU but to all international organisations whose decisions are binding for their member states.

I will not be able to analyse the complete reform discourse and all justifications put forward in it in this article. Rather, I will focus on the actor that stood to benefit most from the reform, the German government. It will be the actor pressed hardest to bring forward justifications for the non-egalitarian character of the new voting system. In the conclusion, I will also briefly illustrate that Germany's justifications eventually became the generally accepted standard in the reform debate even for those who did not share Germany's proposal for reforming the system of voting weights.

Before I turn to this investigation, I will briefly recount the debate about the reform of weighted voting in the Council of the EU as a background for the German arguments.

Reforming voting rules in the Council of the EU

The system of group-based voting weights

The EU has a highly complex decision-making process that involves the European Commission, the European Parliament and the Council of the European Union. The Council is the body in which EU member states are represented at the ministerial level. There is a tacit rule that decisions in the Council are to be taken by consensus and most decisions are made this way.¹⁸ If no consensus can be achieved, however, formal votes can be taken and there is a growing tendency to actually do so. Depending on the issue to be decided,

¹⁶Andrew Moravcsik, *The Choice for Europe* (Ithaca: Cornell University Press, 1998), p. 19.

¹⁷See also Mark A. Pollack, "International Relations Theory and European Integration", *Journal of Common Market Studies*, Vol. 39, No. 2 (2001), pp. 221–244; Mark A. Pollack, "Theorizing the European Union: International Organization, Domestic Polity, or Experiment in New Governance?", *Annual Review of Political Science*, Vol. 8 (2005), pp. 357–398.

¹⁸Fiona Hayes-Renshaw, Wim Van Aken and Helen Wallace, "When and Why the EU Council of Ministers Votes Explicitly", *Journal of Common Market Studies*, Vol. 44, No. 1 (2006), pp. 161–194.

voting rules differ and since the Maastricht Treaty went into force in 1993, the rule for the bulk of policy decisions was qualified majority voting (QMV). In a QMV decision, member state votes are weighted according to voting weights defined in the founding treaties of the Union and a certain quorum of votes needs to be achieved for a positive vote (around 70% of weighted votes). Voting weights reflect roughly the size of member states, yet on the basis of degressive proportionality, which is to say that smaller member states receive a larger share of votes than their size in terms of population or GDP would suggest.

The exact number of votes that every state receives changed over time. Reforms of the voting system were mainly due to the successive enlargements of the EC/EU. Originally there were three groups of states, big states which received four votes (France, West Germany and Italy), medium-sized states with two votes (Belgium and the Netherlands), and Luxembourg which received one vote. The number of state groups, their voting weights and the threshold necessary for winning a vote were adjusted after the enlargement of 1973 (UK, Denmark and Ireland). Afterwards, Greece (1981) as well as Spain and Portugal (1986) were integrated into the system, which, once again, necessitated adjustments in the threshold of votes for making a decision. This, however, led to an aggravating disproportionality where voting weights on the one hand and overall weight in terms of population size increasingly grew out of proportion. Over the years this put large member states more and more at a disadvantage.¹⁹

The reform process

The prospect of further enlargement after the end of the Cold War to include not only Finland, Austria and Sweden but, at a later point in time, also the newly democratising states of Central and Eastern Europe necessitated yet another adjustment of the system and the big states obviously had an interest in not letting disproportionality get out of hand. The problem was addressed as part of a larger process of institutional reforms in the Union. These reforms were negotiated at a series of so-called Intergovernmental Conferences (IGC), a process that can go on for years and usually ends with a summit of EU members' heads of states and governments. The reform of voting rules in the Council was tackled first at the Amsterdam IGC (1995–1997) but a final compromise was only reached at the conclusion of the Lisbon IGC (2007). The debate was started by the big states which voiced their concerns about the increasing disproportionality. This problem was especially pressing for Germany, which had added another 16 million people to its population (almost the size of the Netherlands) through unification without adjustments in its voting weight. From the beginning, two basic options for a reform of voting rules were put on the table: sticking to the old system of group-based inequality and simply re-weighting the votes to make sure that big states regained a larger share of the total vote; or drawing up a completely new system. The latter would be a “double majority” system which would combine some traditional majority requirement for the vote among state representatives with some requirement for the number of citizens represented by this majority.

¹⁹For a detailed analysis of the implications see, for example, Michel Le Breton, Maria Montero and Vera Zaporozhets, “Voting Power in the EU Council of Ministers and Fair Decision Making in Distributive Politics”, *Mathematical Social Sciences*, Vol. 63, No. 2 (2012), pp. 159–73; Dan S. Felsenthal and Moshé Machover, *The Measurement of Voting Power: Theory and Practice, Problems and Paradoxes* (Cheltenham: Elgar 1998).

I will not go into the technical intricacies of the debates around these issues but just outline the basic chronology of negotiations to clarify the setting for the analysis that follows. At the Amsterdam IGC, negotiations proved so difficult and enlargement still so distant that members agreed to deal with the voting issue at another IGC preceding the Eastern enlargement. The subsequent Nice IGC (2000–2001), however, did not bring much progress either. Eventually supporters of the double-majority idea and of a re-weighting of votes reached a compromise that left everyone unhappy.²⁰ Voting weights were adjusted somewhat without really alleviating the disproportionality problem and a triple majority system was created. The winning side of a vote now needed (1) a qualified majority of weighted votes (somewhat above 72%); and (2) a majority of member states which (3) represented at least 62% of the Union's population.

This new system received much criticism. The next round of reforms was negotiated at the European Convention which included not only government representatives but also parliamentarians and in whose deliberations members of civil society were also included. The Convention came up with a bold proposal: a simple double majority system in which a (unweighted) majority of member states representing a majority of the EU population was required for a positive vote. However, member state representatives, discussing the Convention proposal at a subsequent IGC (2003/2004) could not agree on it and instead came up with a somewhat watered-down version that was at the same time intended to make transition to a double majority system easier. According to the resulting Constitutional Treaty a majority to win a vote had to consist of 55% of member states, but at least 15 of them, which represented at least 65% of the Union's population.

This double majority compromise was threatened after the Constitutional Treaty had been rejected in referendums in France and the Netherlands. At the Lisbon IGC (2007), which was called to modify the rejected Treaty, Poland fought hard to return to the triple-majority system of Nice. In response to these concerns, the Lisbon Treaty postponed the introduction of the new double majority system. It eventually went fully into force in April 2017.

Examining Germany's justifications

The German government strongly supported the double-majority system in this debate. The double majority promised a considerable gain in voting power for Germany. It is easy to see, therefore, why the German government would take this position. Yet it is less easy to see how such a shift could be justified. After all, it would keep inequality firmly institutionalised in the Council. A simple double majority system would enhance Germany's voting power vis-à-vis all other EU members, significantly reduce that of the states which formerly held equal voting power with Germany and abolish intra-group equality of voting power across the board.²¹ How did Germany seek to create legitimacy for the move, by pointing to functional necessities or by tapping alternative legitimacy resources?

²⁰Mark Gray and Alexander Stubb, "Keynote Article: The Treaty of Nice – Negotiating a Poisoned Chalice?", *Journal of Common Market Studies*, Vol. 39, No. s1 (2001), pp. 5–23.

²¹For detailed calculations, see Madeleine O. Hosli, "The Balance between Small and Large: Effects of a Double-Majority System on Voting Power in the European Union", *International Studies Quarterly*, Vol. 39, No. 3 (1995), pp. 351–370.

To find out, I will explore the repertoire of justifications that the German government employed and assess the significance of functional arguments *vis-à-vis* others to establish which normative basis for institutional inequality the German government sought to establish. In contrast to legitimization statements²², justifications do not simply state that an institution is worthy of support. This is implied as the speaker puts forward a proposal and, by implication, claims that it is worthy of support. Instead, they provide reasons for why this is the case by arguing that a proposal concurs with something that the group in question values.

To identify justifications, I examined a set of public statements, in which members of the German government formulated a position for the reform of voting weights in the Council of the EU during the reform process, i.e. between 1995 and 2008. This set of statements comprehensively covers all parliamentary speeches by members of the governing coalitions. It also includes all statements documented by the German federal government in its official publication, the *Bulletin der Bundesregierung*. More specifically, I first identified all speeches in the lower chamber of the German parliament, the *Bundestag*, in which a member of the Cabinet or a parliamentarian from the governing coalition addressed the reform of EU Council voting rules. I dropped all speeches in which neither a policy position was formulated (i.e. an answer to the question what Council voting rules should look like) nor a justification was explicated (why should Council voting rules be changed or maintained?). This left 43 parliamentary speeches in the collection, in which 68 justifications were made. Secondly, I included all official German government statements as documented in the federal government's *Bulletin* which formulated a position and/or a justification concerning the Council voting reform debate. This subset includes speeches by government ministers and the Chancellor to domestic and international audiences as well as formal position statements as, for example, German-French positions formulated in the context of IGCs. Wherever possible this part of the set was complemented by official positions as formulated in EU meetings. Minutes and summaries of such meetings have been made publicly available until the year 2000.²³ These sources resulted in another 30 documents with 34 justifications.²⁴ Overall, the collection consists of 73 documents with 102 justifications.²⁵

I classified the justifications put forward by Germany in a recursive process. I started with a list of potential justifications derived from the voting power literature. Accordingly, the German government and its supporting coalition could justify their reform proposal by reference to their power position, arguing that more powerful countries deserve more weight in decision-making. I also included justifications that make reference to the German "interest" in this category. Secondly, the efficiency of EU decision-making could be referred to, arguing that a reform proposal would enable the EU to deliver

²²Steffen Schneider, Frank Nullmeier and Achim Hurrelmann, "Exploring the Communicative Dimension of Legitimacy: Text Analytical Approaches", in Achim Hurrelmann, Steffen Schneider, and Jens Steffek (eds.), *Legitimacy in an Age of Global Politics* (Basingstoke: Palgrave, 2007), pp. 134–135.

²³They are available via the European Commission's DORIE website <<https://ec.europa.eu/dorie>> and the website of the Centre Virtuel de la Connaissance sur l'Europe <<https://www.cvce.eu/en>>.

²⁴Parliamentary speeches are cited from the official record, *Plenarprotokolle des Bundestags (PIPr)* with column number and date. The *Bulletin der Bundesregierung* is cited here as *Bulletin* with title and *Bulletin* number. All direct quotes from German and French sources are translations by the author.

²⁵A sentence that contains two justifications ("We favour the double majority because it both enhances democracy and efficiency of EU decision-making") is counted as two distinct statements. The full list of documents and the dataset with the codings are available from the author.

results, for example by preventing gridlock. I added equality as a third category because equality concerns are the obvious “elephant in the room” when the weighting of votes is being discussed. In a second round, I went through the remaining justifications and classified them into abstract categories, which I will spell out below. For all categories I also identified *how*, according to the speaker, the policy proposal would make the contribution claimed in the statement; that is, how the double majority would make policy-making more efficient etc. These subcategories enable me to give a more differentiated account of how German policy-makers sought to legitimize the design choices they proposed. The resulting categories and subcategories were documented in a concise codebook, whose categories and subcategories are reproduced in the tables below. Codings of all documents were double-checked against this codebook in a third and final round.

From this analysis, a clear common thread emerges. German governments used equality as their main normative reference point to justify decision-making rules that actually would privilege Germany in the Council. Efficiency arguments were prominent as well and fairness was added as a justification of minor importance.

Equal, efficient and fair: how Germany justified the double majority

There were three German governments in the period investigated here. The coalition of Christian Democrats and Liberals under Chancellor Helmut Kohl (until 1998), the coalition of Social Democrats and Greens under Gerhard Schröder (1998–2005) and the “Grand Coalition” of Christian Democrats and Social Democrats under Angela Merkel (2005–2009). Even though this is an ideologically diverse set of governments, they took very similar positions in the debate about the reform of voting in the Council of the EU. In principle, they all advocated a move towards a greater weight for Germany in Council decisions. In the very early stages of the reform debate and during the Nice endgame, when the double majority did not appear to be a realistic option, the government was sometimes content with supporting a reweighting of votes. However, the move towards a double majority was a clear preference already in the mid-1990s and became the only option for Germany after Nice.

How did German governments seek to justify this position? It is important to note, first, that the governments took care to present public justifications throughout. Statements of policy position are rarely just bare statements of the position. In 89 percent of the statements, the policy position is followed by a principled justification. There are just 12 statements in which a position is formulated without such justification. Moreover, all three governments rely on a similar repertoire of justifications. It consists of two major arguments about which principles German proposals seek to advance: efficiency of EU decision-making, on the one hand, and equality and democracy, on the other hand. As [Figure 1](#) illustrates, the clear majority of German justifications refers to these principles. Much less weight is given to arguments about fairness between member states. German interests and power are almost absent from German justifications. I will address these arguments, in turn, describe and illustrate them in more detail and then discuss the overall pattern of how the increase in inequality between governments in the Council is justified by one of its most ardent supporters.

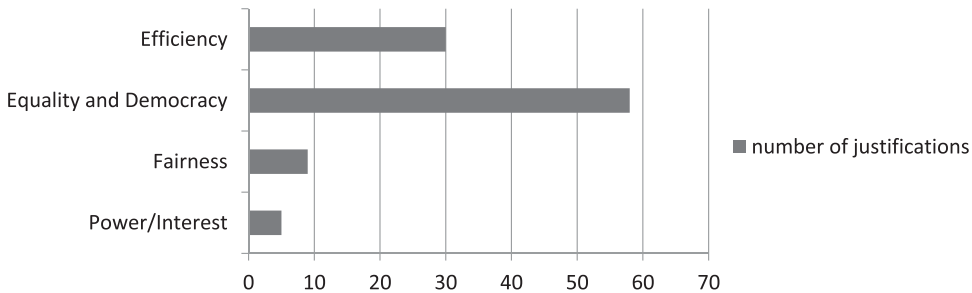


Figure 1. German justifications for Council voting reform, 1995–2008.

Efficiency

Efficiency arguments figure prominently in functionalist explanations of inequality.²⁶ Just as in these explanations, German legitimisation moves construe the effective functioning of the EU as a common good that requires adequate institutional design. That the German position will be strengthened as a result is treated as a side effect and barely mentioned. At closer inspection, however, the arguments put forward by the members of Germany's governing coalitions do not serve as justifications of inequality in the Council but rather justify a different system for calculating majorities.

As Table 1 illustrates, German efficiency arguments focus on the ease with which decisions can be made in the Council, especially after enlargement. German policy-makers state time and again that they advocate a reform of voting rules in order to ensure that the EU maintains its ability to act²⁷, its functioning²⁸ and effectiveness.²⁹ Sometimes they just state that a reweighting of votes is a prerequisite of enlargement³⁰ or an enlargement without reweighting could "create problems".³¹

The link between enlargement and the threat of a paralysed EU, however, is never really specified until December 2003, shortly before enlargement and in Germany's final push for the double majority. The double majority, it now was argued, would make it more difficult to block decisions in the Council. In one of his most elaborate justifications of the German position, Foreign Minister Joschka Fischer argued in December 2003 that the old system of weighting votes was built around the ability of minorities to block decisions in the Council, whereas the double majority would make it easier to create

²⁶For example, Davis and Moore, *op. cit.*, Blake/Payton, *op. cit.*

²⁷Klaus Kinkel, "Die deutsch-französischen Beziehungen - Perspektiven der Zusammenarbeit. Beitrag für die Zeitschrift 'La Tribune Franco-Allemande'", *Bulletin*, No. 07-98 (27 January 1998); Joschka Fischer, "Zukunftsfähigkeit und Legitimität der Europäischen Union - Rede von Bundesaußenminister Fischer in Paris", *Bulletin*, No. 04-99 (25 January 1999); Joschka Fischer, "Rede des Bundesministers des Auswärtigen, Joschka Fischer, zum Ende der deutschen Ratspräsidentschaft in der Europäischen Union vor dem Europäischen Parlament am 21. Juli 1999 in Straßburg", *Bulletin*, No. 45-99 (22 July 1999); Frank-Walter Steinmeier, "Wechsel im Amt des Präsidenten des Bundesrates - Rede des Chefs des Bundeskanzleramtes, Staatssekretär Dr. Frank-Walter Steinmeier, zum Antritt als Präsident des Bundesrates am 5. November 1999 in Bonn", *Bulletin*, No. 78-99 (9 November 1999).

²⁸Anna Lührmann, *PIPr*, 15/82 (11 December 2013), 7143A.

²⁹Steinmeier, *op. cit.*

³⁰Gerhard Schröder and Jacques Chirac, "Gemeinsamer Brief des Bundeskanzlers der Bundesrepublik Deutschland, Gerhard Schröder, und des Präsidenten der Französischen Republik, Jacques Chirac, an den amtierenden Vorsitzenden des Europäischen Rates und Bundeskanzler der Republik Österreich, Viktor Klima", *Bulletin*, No. 79-98 (10 December 1998); Joschka Fischer, "Rede des Bundesministers des Auswärtigen Joschka Fischer am 12. Mai 2000 in der Humboldt-Universität in Berlin", *Bulletin*, No. 29-1 (24 May 2000); Gerhard Schröder, *PIPr*, 14/117 (13 September 2000), 11220A.

³¹Karl Lamers, *PIPr*, 13/185 (27 June 1997), 16745C.

Table 1. Number of German justifications: Efficiency arguments, 1995–2008.

German proposals ...	
... make it more difficult to block Council decisions.	11
... ensure the functioning of the EU after enlargement.	9
... make it possible to expand majority decisions to additional policy areas, thus enhancing efficiency of decision-making.	5
... make decision-making more efficient (no specification).	5
<i>Efficiency overall</i>	<i>30</i>

positive majorities and would thus ensure the Council's ability to act.³² The contrast between destructive "blocking minorities" (*Blockademinderheiten*) and "constructive majorities" (*Gestaltungsmehrheiten*) became a staple of German speeches on the weighting issue in the following months. It was a favourite trope of Foreign Minister Fischer³³ in the post-Convention debate but was taken up also by members of the Social Democrats.³⁴

Two observations are particularly notable regarding the efficiency argument. First, it was particularly prominent in one specific phase of the negotiation process, namely after the Convention. It was used as an argument in favour of moving from the Nice system to the double majority and it lost much of its significance once member states agreed to abandon the Nice system.³⁵

Second, and more importantly here, there is no obvious direct link between this type of efficiency and a weighting of votes. The ease with which decisions can be blocked hinges on the size of the majority needed, not on the weights themselves. In this sense a one-state one-vote simple majority system would be the most efficient one. Efficiency thus understood is not a justification of inequality *per se*. Rather it is a criterion that can be applied to decision-making systems based on both equal and unequal treatment of their participants. It is not surprising, then, that the efficiency argument usually is made in conjunction with other arguments. In other words, justifications for the very fact of inequality and for how unequal weights in decision-making should be assigned to EU members have to be found elsewhere. And they can indeed be found in two other sets of justifications: arguments about fairness and arguments about equality and democracy.

Fairness

Let us first turn to fairness arguments. They are less prominent and occur only 9 times (as opposed to 30 references to efficiency and 58 to equality and democracy). But they present a straightforward justification for inequality as they are based on the assumption that entities with different qualities should be treated differently to ensure fairness. They also provide an instructive contrast to the much more prominent equality/democracy justifications.

³²Joschka Fischer, *PIPr*, 15/82 (11 December 2003), 7131D–7132B.

³³*Ibid.*; Joschka Fischer, *PIPr*, 15/84 (19 December 2003), 7428D and *PIPr*, 15/92 (13 February 2004), 8204D–8205A; Joschka Fischer, "Rede des Bundesministers des Auswärtigen, Joschka Fischer, zur Eröffnung des 'Internationalen Bertelsmann Forums' am 9. Januar 2004 in Berlin", *Bulletin* 03–1 (9 January 2004).

³⁴Hans Martin Bury, *PIPr*, 15/82 (11 December 2003), 7157B and *PIPr*, 15/102 (1 April 2004), 9216B; Angelica Schwall-Düren *PIPr*, 15/84 (19 December 2003), 7415A and *PIPr*, 15/92 (13 February 2004), 8195D–8196A; Michael Roth, *PIPr*, 15/112 (28 May 2004), 10223A–B.

³⁵During the Lisbon ratification debate, it is mentioned only once and very briefly by CDU MP Andreas Schockenhoff, *PIPr*, 16/151 (13 March 2008), 15840A.

Table 2. Number of German justifications: Fairness arguments, 1995–2008.

German proposals ...	
... ensure that both small and large countries need to strike compromises.	6
... ensure that net contributors and net receivers need to strike compromises.	1
... ensure fairness in Council decision-making (no specification).	2
<i>Fairness overall</i>	9

As Table 2 shows, the key criterion which demands differential treatment is the size of member states in German fairness arguments. They are based on the assumption that a state's size, in terms of its population, should somehow matter in the Council. This, of course, is the long established practice in the Council. Based on this assumption, the German government argued that German unification (without an increase in German votes) and Eastern enlargement (with the inclusion of additional small states) significantly shifted the balance between big and small states in the Council to a degree where the distribution of votes would become unfair. At a meeting during the Nice IGC the German government presented the other states with a simple calculation to drive home this point. Germany, at the time, held 10 votes (unchanged since 1973). Its population, the argument went, was equal to that of ten smaller states which together held 34 votes. After enlargement, its population size would equal that of 17 smaller states which together would hold 57 votes if the system was not modified.³⁶ Implicit in this calculation was the argument that the disproportionality between population size and number of votes would get out of hand through enlargement.

The argument became less indirect and more often used as a justification of the double majority after the Convention. The Convention draft was praised as “fair and balanced”³⁷ because it prevented the big states from being outvoted by the small states (due to the population criterion) and the small states being outvoted by the big states (due to the state majority criterion). This was argued to ensure “a fair balancing of interests” “between the big and the small ones within the Union”.³⁸ Regularly, these justifications refer to the differentiation between “the small” and “the big” states in the Union, sometimes specified as 19 small and six big states.³⁹ EU decision-making is depicted as characterised by the search for compromise between these two groups and consequently the double majority, which requires such compromise, is argued to be the best decision rule available.⁴⁰ The fairness justification thus is based on the idea that the distinction between small and big members is salient and itself justified. Given this distinction, fairness requires a decision rule that ensures that neither side is dominated by the other. The same argument could be made for the balance between member states that are net contributors to the EU budget and those that are net receivers but this argument is made explicit only once and only in an internal EU meeting.⁴¹

³⁶See CIG Groupe des Représentants - 25 septembre 2000 - Déjeuner - Pondération des voix, D(2000)0167/PVN/amt (26 September 2000), available: <<http://ec.europa.eu/dorie>> (accessed: 17 September 2018).

³⁷Joschka Fischer, *PIPr*, 15/72 (6 November 2003), 6166C.

³⁸Joschka Fischer, *PIPr*, 15/82 (11 December 2003), 7131D.

³⁹Joschka Fischer *PIPr*, 15/72 (6 November 2003), 6166C, *PIPr*, 15/82 (11 December 2003), 7131D–7132A; Joschka Fischer, “Rede zur Eröffnung des ‘Internationalen Bertelsmann Forums’”, *op. cit.*; Hans Martin Bury, *PIPr*, 15/82 (11 December 2003), 7157B; Marianne Tritz, *PIPr*, 15/160 (24 February 2005), 14919A.

⁴⁰See especially Joschka Fischer, *PIPr*, 15/82 (11 December 2003), 7132A.

⁴¹CIG – Groupe des Représentants – 25/09/2000 – Déjeuner – Pondération des voix, Meeting Record, 26 Sep 2000, p.3, <https://ec.europa.eu/dorie/fileDownload.do?docId=5069&cardId=5069>.

Table 3. Number of German justifications: Equality/democracy arguments, 1995–2008.

German proposals ...	
... reflect the double equality of states and citizens.	15
... ensure representativeness of Council decisions.	14
... reflect the equality of citizens.	2
... make decision-making easily understandable as required in democracies.	12
... ensure that decisions are made by majorities as required in democracies.	8
... are democratic (no specification).	7
<i>Equality and democracy overall</i>	<i>58</i>

Equality and democracy

While the fairness argument proceeds from *differences* inherent in states as a justification for inequality, the single most important justification put forward by successive German governments instead proceeds from the *equality* of states and the *equality* of citizens in the European Union and argues that decision rules need to express this double equality.

Analytically, the justifications collected under this category and summarised in Table 3 can be distinguished in two subcategories. On the one hand, they focus on the equality of states and citizens; on the other hand, they centre on general characteristics of democracies, especially the principle that decisions are made by majorities and that decision rules should not be opaque. However, in practice, these two subcategories are closely intertwined in arguments put forward by German governments and their supporting coalitions. All justifications listed in Table 3 centre on a general commitment to democracy as the key standard for evaluating decision-making rules. The double majority, for example, is justified as concurring with “democratic principles”.⁴² The Nice compromise is defended as acceptable “in terms of [...] the democratic principle”⁴³ and as “strengthening the democratic legitimacy of Council decisions”⁴⁴ during the ratification phase. It is characterised as “hardly democratic”⁴⁵ two years later when the same government seeks to have it replaced by the double majority. Democracy thus serves as a legitimating principle even though its application to concrete rules is flexible.

Democracy as construed in German justifications is a system of rule and decision-making that is centred on citizens. It has three major elements: representation of citizens, majority rule and transparency for citizens. Consequently, decisions in the Council should be made not (just) by a majority of states but they should reflect a majority of citizens. Decisions that are made against the majority of citizens are argued to be undemocratic. Already in 1995, the German government argued in reply to a parliamentary question that it was “necessary in the interest of strengthening democratic legitimacy to make sure that in the future, in an enlarging Union, Council decisions are backed by a sufficient majority of the population”.⁴⁶ Successive German foreign ministers argued it would “strengthen the democratic legitimation”⁴⁷ and express “the democratic principle

⁴²Hans Martin Bury, *PIPr*, 15/82 (11 December 2003), 7157B.

⁴³Joschka Fischer, *PIPr*, 14/144 (19 January 2001), 14124B.

⁴⁴Günter Gloser, *PIPr*, 14/179 (28 June 2001), 17615C.

⁴⁵Michael Roth, *PIPr*, 15/72 (6 November 2003), 6158B.

⁴⁶Bundesregierung, “Antwort der Bundesregierung auf die Große Anfrage des Abgeordneten Christian Sterzing und der Fraktion BÜNDNIS 90/DIE GRÜNEN”, *Bundestag Drucksache* 13/3198 (5 December 1995), Question 3.4.

⁴⁷Klaus Kinkel, *PIPr*, 13/44 (22 June 1995), 3545D.

of the Europe of citizens”⁴⁸ if a reform of Council decision-making ensured that decisions were made by states representing the majority of the EU’s overall population.

Principally, this could be ensured by a simple re-weighting of votes. Before enlargement, the German government employed the argument in this sense: “The objective of reforming the weighting of votes must therefore be to ensure a more representative balance between Member States so that the minimum percentage of the population required for a qualified majority continues to be about 60%”.⁴⁹ This “representative balance” argument was repeated as long as the German government was open to settle for a simple reweighting of votes.⁵⁰

When the Convention draft firmly put the double majority principle on the table, German justifications subtly shifted. They no longer referred to representativeness. Rather, the core argument now was that the European Union was a particular kind of democratic community, one in which there existed two different types of political subjects: states and citizens. As democracy was based on majority decisions among equals, Council decisions had to reflect both the majority of states and of citizens, and the double majority was the most straightforward way of ensuring this.

The argument became central to German justifications immediately after the Nice compromise. In seeking ratification for the agreement, Foreign Minister Fischer told parliament that “the federal government would have preferred the double majority procedure. [...] It was the position of the federal government to bring to the fore the two basic principles—equality of states and equality of citizens”.⁵¹ Starting after the Convention, the “double character” of the EU as a “union of states and a union of citizens” became a regular reference point for German policy-makers in defending their preference for the double majority. At times, they simply stated this double character and presented the double majority as a reflection⁵² or a “logical consequence”⁵³ of this character. Whenever they explicated this link, they emphasised that the double majority best reflected the equality of states and the equality of citizens. Statements refer to the double majority as reflecting both the “one state, one vote” principle” and the “principle that all citizens of Europe count the same”⁵⁴; the “equal rights of all members” and the principle “one citizen—one vote”⁵⁵; the fact that the EU is a Union of “equal states and citizens”⁵⁶; or

⁴⁸Joschka Fischer, *PIPr*, 14/144 (19 January 2001), 14124A.

⁴⁹“Policy document of the Government of the Federal Republic of Germany on the Intergovernmental Conference on institutional reform”, CONFER 4733/00 (21 March 2000), available: <<https://www.cvce.eu>> (accessed: 24 September 2018).

⁵⁰Helmut Kohl and Jacques Chirac, “Gemeinsame Botschaft von Bundeskanzler Dr. Helmut Kohl und dem Präsidenten der Französischen Republik, Jacques Chirac, an den amtierenden Vorsitzenden des Europäischen Rates und Ministerpräsidenten von Irland, John Bruton”, *Bulletin*, No. 102–96 (11 December 1996); Joschka Fischer, *PIPr*, 14/126 (25 October 2000), 12108C and *PIPr*, 14/135 (28 November 2000), 13038B; Joschka Fischer, “Rede des Bundesministers des Auswärtigen, Joschka Fischer, vor dem belgischen Parlament am 14. November 2000 in Brüssel”, *Bulletin*, No. 76-3 (14 November 2000); Werner Müller, “Rede des Bundesministers für Wirtschaft und Technologie, Dr. Werner Müller, auf der Jahres-Mitgliederversammlung des Ost- und Mitteleuropaverbands e.V. am 4. Mai in Hamburg”, *Bulletin*, No. 25-3 (10 May 2000); Gerhard Schröder, *PIPr*, 14/135 (28 November 2000), 13027D–13028A.

⁵¹Joschka Fischer, *PIPr*, 14/144 (19 January 2001), 14124A.

⁵²Michael Roth, *PIPr*, 15/72 (6 November 2003), 6158C and *PIPr*, 16/103 (14 June 2007), 10583B; Joschka Fischer, *PIPr*, 15/72 (6 November 2003), 6166B; Marianne Tritz, *op. cit.*

⁵³Hans Martin Bury, *PIPr*, 15/82 (11 December 2003), 7157B.

⁵⁴Gerhard Schröder, *PIPr*, 15/78 (26 November 2003), 6709D.

⁵⁵Joschka Fischer, *PIPr*, 15/82 (11 December 2003), 7131D–7132A; Joschka Fischer, “Rede zur Eröffnung des ‘Internationalen Bertelsmann Forums’”, *op. cit.*; Gerhard Schröder, “Rede von Bundeskanzler Gerhard Schröder an der Erasmus-Universität ‘World Leader Cycle’ am 15. April 2004 in Rotterdam”, *Bulletin*, No. 34-1 (15 April 2004); Gerhard Schröder, *PIPr*, 15/119 (2 July 2004), 10870B-C and *PIPr*, 15/175 (12 May 2005), 16349B.

⁵⁶Anna Lührmann, *PIPr*, 15/82 (11 December 2013), 7143A.

the “old, good principle that every state, independent of its size, has one vote” and that “the votes of citizens have equal weight”.⁵⁷

The double-equality argument often was accompanied by praise for the transparency of the double-majority system, “a very beautiful and very logical procedure”.⁵⁸ It was justified as easy to understand by citizens—in contrast to the Nice system. “Majority rules need to be understood. This is a key point of democracy, this is the prerequisite for transparency”.⁵⁹

German power and interests

Finally, “power” is effectively absent from Germany’s justifications. There is a set of justifications that can be classified as “interest-based” arguments. However, these are extremely rare and occur just in five statements overall. Given that most of the documents analysed are domestic speeches, the conditions for making interest-based arguments are certainly favourable. It would seem like an obvious selling point vis-à-vis a German audience that the double majority system strengthened Germany’s voting power in the Council. However, such arguments are rare, they never serve as main justification and they are formulated very cautiously. Chancellor Schröder, for instance, once states in parliament he did “not want to hide that Germany’s position within the Union is enhanced through the double majority”⁶⁰, Conservative MP Michael Stübgen says he is satisfied with the fact that the double majority, “in which especially Germany has a particular interest”, could be retained in the Lisbon Treaty⁶¹ and Chancellor Merkel argues that the inclusion of a population criterion “of course is important for Germany”.⁶² But this is a far cry from the weight that is put on general normative principles for legitimising Germany’s insistence on a reweighting of votes or the double majority.

Justifying inequality through equality, fairness, efficiency: implications and conclusions

The analysis shows how powerful equality is as a normative reference point for justifying decision-making rules in the EU. Moreover, it demonstrates that equality can be employed as a normative standard to justify *inequality*. Eventually, the reform of voting rules in the name of equality enhances the power of the German government vis-à-vis the other governments in the Council.

This effect can best be understood by looking at the reform debate as one about *categorisation* and *distribution*, as suggested by Fehl and Freistein.⁶³ The key move in justifying the double majority as enhancing equality is introducing a new category of political subjects in arguments about inter-state decision-making: citizens. This layering of different

⁵⁷Gerhard Schröder, *PIPr*, 15/106 (30 April 2004), 9586C.

⁵⁸Angela Merkel, “Rede von Bundeskanzlerin Dr. Angela Merkel beim Journalisten-Symposium des ‘Konvents für Deutschland’ am 5. Dezember 2007 in Berlin”, *Bulletin*, No. 139–3 (5 December 2007).

⁵⁹Joschka Fischer, *PIPr*, 15/72 (6 November 2003), 6166C. See also Joschka Fischer, *PIPr*, 15/82 (11 December 2003), 7132A; Hans Martin Bury, *PIPr*, 15/82 (11 December 2003), 7157B and *PIPr*, 15/102 (1 April 2004), 9216B.

⁶⁰Gerhard Schröder, *PIPr*, 15/119 (2 July 2004), 10870C.

⁶¹Michael Stübgen, *PIPr*, 16/115 (20 September 2007), 11946B.

⁶²Angela Merkel, *PIPr*, 16/157 (24 April 2008), 16452C.

⁶³Fehl and Freistein, *op. cit.*

categories of subjects makes it possible to maintain the argument that the distribution of votes is egalitarian—when looking at each category of actors in turn: that is, states count the same when looking at the state majority criterion, citizens count the same when looking at the representative majority criterion. As both subjects (states and citizens) are represented by the same entity (governments), the effect, however, is an increase in the inequality among both categories. This is most obvious for states. Under the double majority rule the German government will be part of more winning coalitions than, say, the French government, whereas they had the same number of votes and thus the same voting power in the preceding system.⁶⁴ This may be considered fair (larger states deserve more influence) but it does not create equality between the two states.

The fact that the system, nonetheless, is justified as expressing the equality of political subjects (states and citizens) rather than establishing fairness among unequal (e.g. big and small) states underlines how attractive the equality standard is in contrast to arguments that are based on inherent power differentials between states. Such arguments are possible and other contributions to this special issue demonstrate the ability of governments to mobilise arguments about their position in a hierarchy to justify institutional privileges. Great power status, for example, was not only used as a justification for privileges in League of Nations decision-making in the 1920s.⁶⁵ It is still employed today, alongside arguments about financial and troop contributions to UN peace-keeping, for instance, as justification for more influence over decisions on peace-keeping operations.⁶⁶ While institutional inequality thus can be justified as reflecting existing hierarchies, the *equality*-based justification in the EU case proves to be particularly forceful. It makes it extremely difficult for others to dismiss the German positions as simple egoistic moves to enhance Germany's influence in the Council. Moreover, equality and democracy are principles that cannot be easily contested nowadays.

Making the power of these arguments fully visible would require an analysis of the legitimisation discourse as a whole, which obviously is beyond the scope of this article. Nonetheless, a cursory look at other major players in the reweighting debate offers a glimpse at the significance of the double-equality argument. Both the French and the Polish government opposed the move towards the double majority and sought to introduce an alternative normative standard into the debate, namely historical justice. The French government referred to the “perpetual equality” between France and Germany that had been agreed in the founding treaties as a contribution to post-World War II reconciliation⁶⁷, the Polish government to the fact that Poland had suffered significant losses in population through World War II.⁶⁸ But neither could fully ignore the justification Germany had put forward. The French government explicitly acknowledged the legitimacy of the

⁶⁴Necessarily, the argument is more complex for citizens. Voting power analysis applies the concept of the “median voter” to assess how much influence a state's citizens have indirectly over Council decisions. Analyses along these lines demonstrate that the EU's double majority system generates more inequality than the previous system of weighted voting. See Leech and Haris, *op. cit.*

⁶⁵Thomas Müller, “Institutional Reforms and the Politics of Inequality Reproduction: the Case of the League of Nations' Council Crisis in 1926”, *Global Society*, Vol. 34, No. 3 (2020).

⁶⁶Katharina Coleman, “United Nations Peacekeeping Decisions: Three Hierarchies, Upward Mobility and Institutionalized Inequality among Member States”, *Global Society*, Vol. 34, No. 3 (2020).

⁶⁷Pierre Moscovici, Assemblée Nationale, *Compte Rendu Intégrale*, 2ème séance du mercredi 29 novembre 2000, p. 9522.

⁶⁸George Jones, “Polish PM Adopts WW2 Rhetoric at EU Summit”, *The Telegraph* (21 Jun 2007), available: <<http://www.telegraph.co.uk/news/uknews/1555189/Polish-PM-adopts-WW2-rhetoric-at-EU-summit.html>> (accessed: 26 February 2019).

German arguments.⁶⁹ The Polish government implicitly acknowledged the legitimacy of linking a government's voting power more directly to population size—albeit in a quite idiosyncratic way—when it argued that Poland should be treated as if World War II had not happened and it had 66 million citizens.⁷⁰

The Polish government faced an enormous backlash for introducing claims to historical justice into the debate and former Irish Prime Minister John Bruton summed up the result of that debate: that legitimisation based on democracy and the underlying norm of political equality was easier to maintain than legitimisation based on historical justice.

Over the years we have worked in the EU on the basis that as far as Europe was concerned, there were no politics in Germany — that the Germans, because of war guilt, could be expected to pay the bill. That era has passed. The war has been over for almost 60 years. It is not reasonable to expect the Germans not to have the same demands for equality of treatment as the Irish, the Poles or the Spaniards. The double majority gives them equal treatment.⁷¹

I do not want to claim that German justifications serve as an explanation for the eventual institutionalisation of the double majority in the EU. But paying attention to this dimension of the political debate nonetheless tells us something of importance for political analysis. Institutionalising inequality creates justice issues and political actors need to engage with these issues in the political process. Analysing how one of the key players in the EU, Germany, did this, not only highlights a case of creative state craft, where arguments about equality were weaved into an argument in favour of enhancing Germany's voting power. It also makes visible crucial elements of the normative constitution of today's European Union. It highlights normative standards of which German policy-makers assume that they are valid in the EU and Germany's success in the debate contributes to their validation. Most importantly, citizens are construed as political subjects in their own right within an international organisation, alongside state governments. This turns out to be a highly consequential move as it undermines two other normative reference points: the equality of states in international law and the need to restrict German power as a consequence of German aggression in World War II. It thus serves to normalise the German position within the EU and to justify inequality in the name of equality.

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⁶⁹*Ibid.*

⁷⁰George Jones, *op. cit.*

⁷¹John Bruton, *Dáil Éireann. Parliamentary Debates*, Vol. 578, No. 1 (20 January 2004), c. 33.

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